Lsp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7124 OF 2007

Smt. Pavitra Pratap Pawar ...Petitioner
V/s.
Chairman,
Pune Vibhag Madhyamik Shikshak-
Shikshakettar Co. Society Ltd. & ors. ...Respondents

Mr. M.B.Shirsat for the Petitioner
Mr. S.S.Pakale for the Respondents

CORAM : B.H.MARLAPALLE,J.
DATED : 3rd December, 2007

P.C.

Heard Mr. Shirsat, the Learned Counsel for the Petitioner, original Complainant. Mr. Pakale appears for the respondent employer.

2. A chargesheet was issued against the Complainant on 14-8-1999 setting out the 9 charges amounting to acts of misconduct and Advocate Mahendra Mane was appointed as an enquiry officer. Pursuant to these disciplinary proceedings, the Complainant came to be dismissed from service and, therefore, he approached Labour Court in comp(ULP)No. 100/2000 filed under item 1 of Schedule IV of the MRTU & PULP Act, 1971. On a preliminary issue, the Learned Judge of the Labour Court by his order dated 2-12-2005 held that enquiry conducted against the Complainant was proper. He further held that out of the 9 charges the findings on all other charges except

charge no.4 and 9 were perverse. The employer challenged this order in Revision App(ULP) No.25/2006 and the revision has been partly allowed by setting aside the order passed by the Labour Court on the 2nd preliminary issue. The Industrial Court has held that the findings of the enquiry officer on all the 9 charges are proper, fair and as directed the complaint to be proceeded further.

3. Mr. Shirsat submitted that nothing further remains in the complaint as the issue of the validity of enquiry as well as findings given by the enquiry officer have been answered in favour of the employer. These submissions lack legal support. When the complaint of unfair labour practice has been filed,it is necessary for the Labour Court to examine whether the Complainant would be succesfull in proving that the employer was guilty of the respective unfair labour practices and even if the preliminary issues have been answered against the Complainant, that by itself does not mean that the complaint has been decided.

4. As per the case of the management, the main charge against the Petitioner is that of submitting false information regarding the qualification and thereby claiming that she was eligible for appointment and these findings are basically based on the documentary

evidence. Though the Courts below have examined the legality of the enquiry conducted and have held that the enquiry was proper and valid, on the issue of findings rendered by the enquiry officer, the Industrial Court has held that the findings of the enquiry on all issues are just and proper. I do not find any reason to take a different opinion than the one taken by the Industrial Court and more so because of the admitted documents. It was Complainant herself who has furnished the information under her own signature claiming that she was holding the B.A. degree which was the minimum education qualification and she did not possess the same degree.

5. I, therefore, do not find that the view taken by the Industrial Court is either perverse or grossly erroneous. Hence, there is no case made out to entertain this petition under Article 227 of the Constituion and the same is hereby rejected summarily.

Trial of the complaint is expedited.

6. Writ be sent forthwith to the Labour Court.

[B.H.MARLAPALLE,J.]